

LGBT Technology Partnership

January 24, 2018

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Dear Chairman Pai,

The LGBT Technology Partnership (“LGBT Tech”) respectfully submits these initial comments addressing the Federal Communications Commission’s (“FCC”) Fourth Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry.¹

Lifeline was established in 1985 to provide discounts on phone service to ensure that all U.S. households had access to vital communications services, regardless of income. Since 2016, the program has also supported broadband access, providing \$9.25 in monthly discounts for voice, voice-data bundles, or stand-alone broadband. On November 16, 2017 the FCC took a “Fresh Look” at the Lifeline program, which, among other things, aimed to address some of the biggest criticisms lobbied at the program including fraud and abuse. Yet this proceeding has raised new concerns about possible negative consequences resulting from these changes. This program has been a vital lifeline for underprivileged members of the LGBT community and continues to be an essential and vital program for LGBT communities for the reasons listed below.

As background, LGBT people in the United States are core users of the Internet and broadband technologies and tend to adopt and rely on new technologies at a higher rate than the general population. About 51% of LGBT-identifying adults have used a smartphone or tablet for three years or more, nearly twice as many as compared to those who do not identify as LGBT. Mobile devices play a particularly vital and important role in the lives of LGBT-identifying adults because of their unique need to find resources and places that will be welcoming and supportive to them. Phone services also allow access to supportive community members, friends or loved ones – our research shows that 80% of LGBT respondents participate in a social networking site, such as Facebook or Twitter, compared to just 58% of the general public.

¹ See *In the Matter of Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287, *Lifeline and Link Up Reform and Modernization* WC Docket No. 11-42, *Telecommunications Carriers Eligible for Universal Service Support* WC Docket No. 09-197, Fourth Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 17-155 (Released December 1, 2017).

However, LGBT people face unique and ongoing challenges that make accessing the Internet across broadband technologies essential for survival rather than mere luxuries. Specifically, the Internet offers a key means for LGBT people to explore their identities without risking physical harm; connect to other people in and beyond their own neighborhoods and communities; and seek out information about an array of LGBT-specific issues, ranging from safe places to live to health information. Our research shows that a large majority (81%) of LGBT youth have searched for health information online as compared to just 46% of non-LGBT youth. Additionally, the research available indicates that searching for health information online may be particularly meaningful for lesbians whose health needs are often ignored or overlooked.

In particular and most relevant to this proceeding, research has also shown that often low-income LGBT individuals are caught on the wrong end of the digital divide. This is especially true for our LGBT homeless, who increasingly rely on wireless technologies as their only means of communications and whose access to the Internet is being affected disproportionately. As poverty rates for nearly all populations increased during the recession, lesbian, gay and bisexual Americans remained more likely to be poor than their similarly situated heterosexual counterparts. Gender, race, education and geography all influence poverty rates among LGBT populations, and children of same-sex couples are particularly vulnerable to poverty.

Furthermore, the Lifeline program is especially vital for underserved and underrepresented LGBT youth. Making up about 40% of the constituency of shelters and other homeless youth services, LGBT youth are overrepresented within the homeless population. For homeless LGBT youth, these technologies are of even greater importance, helping them stay connected with supportive networks and enhancing personal safety. Studies conducted among a sample of adolescents in Los Angeles find that communication technologies are critical for the physical and mental wellbeing of homeless youth. In contrast to those primarily engaging in face-to-face communication with other homeless youth, adolescents keeping in touch with family and friends by means of technology were less likely to abuse alcohol and drugs. Similarly, street youth who use technology to connect with family and friends from home were less likely to experience depression than those primarily engaging in face-to-face relationships with other homeless adolescents. In the context of preventative health services, online information on HIV and other STDs has been found to be especially effective among homeless youth.

LGBT Tech strongly supports efforts to reform and fix the Lifeline program to reduce waste and fraud and make the program even stronger. However, LGBT Tech is concerned that this proposal could simply trigger a reduction in the size of the program without fixing it or even, ideally, expanding it to serve a broader constituency and providing an essential service to more diverse communities including underprivileged LGBT individuals at a point in their lives when they may need this program the most. According to the Brookings Institution, “[W]hile Lifeline may be in need of reform, the proposed changes will only make it harder for low-income Americans to enjoy the benefits of broadband in their homes. At a time when far too many

people are digitally disconnected and digital skills are more important than ever, these reforms push the national economy in the wrong direction.”²

Furthermore, also according to Brookings, in 2015, almost one in four people (a total of 73.5 million) lived in low subscription neighborhoods, where fewer than 40 percent of households subscribed to in-home broadband. Research consistently finds low incomes stand alongside less education and older age as the strongest indicators of lower subscription rates. Low-income neighborhoods (i.e., census tracts with median incomes below 80 percent of the area median income, or AMI) register the weakest subscription rates. A staggering 37 percent of people in low-income neighborhoods have poor subscription rates. Thus lower-income households may struggle to access e-governance services or benefit from telehealth or provide access to online education and job posting forums.³

Specifically, the current FCC proposal suggests a new spending cap that could prevent individuals who qualify for the subsidies from actually receiving them. The Lifeline program has about 12.5 million subscribers, but only about one-third of eligible households receive subsidies. The proposed budget cap could limit enrollment and prevent many of the remaining households including underserved LGBT households from getting broadband or phone subsidies. Currently, the program has a budget of \$2.25 billion but it doesn't have a hard cap on spending. That would change under this proposal thus shutting out some of the communities most in need from being able to take advantage of the program. The proposal imposes a “self-enforcing budget cap” that would limit Lifeline spending.⁴ The proposal does not specify a specific amount for the cap; instead Chairman Pai wrote, “We intend for the program to automatically make adjustments in order to maintain the cap in the event the budget is exceeded.”⁵ If the cap were reached, Lifeline would not be able to provide subsidies to additional people even if they are poor enough to qualify for the program. This is a specific concern for LGBT Tech as there is little guidance on how the FCC would ensure that all communities that need Lifeline would have access to the program. Any FCC proposal needs to guarantee access to all individuals who qualify for the program and the current lack of certainty around the budget and the cap makes it impossible to evaluate the impact of the program on underserved LGBT communities.

2 See Rollback of the FCC’s Lifeline program can hurt households that need broadband the most *available at* <https://www.brookings.edu/blog/the-avenue/2017/11/27/rollback-of-the-fccs-lifeline-program-can-hurt-households-that-need-broadband-the-most/>

3 See Rollback of the FCC’s Lifeline program can hurt households that need broadband the most *available at* <https://www.brookings.edu/blog/the-avenue/2017/11/27/rollback-of-the-fccs-lifeline-program-can-hurt-households-that-need-broadband-the-most/>

4 See *In the Matter of Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287, *Lifeline and Link Up Reform and Modernization* WC Docket No. 11-42, *Telecommunications Carriers Eligible for Universal Service Support* WC Docket No. 09-197, Fourth Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 17-155 (Released December 1, 2017).

5 See *In the Matter of Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287, *Lifeline and Link Up Reform and Modernization* WC Docket No. 11-42, *Telecommunications Carriers Eligible for Universal Service Support* WC Docket No. 09-197, Fourth Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 17-155 (Released December 1, 2017).

Separately, the proposal additionally suggests steps to prevent resellers— a provider who purchases telecommunications services from another telecommunications service provider and then resells it—from offering Lifeline-subsidized plans. This is especially alarming if, as Commissioner Clyburn has stated in her comments on this proceeding, such a proposed reseller ban would effectively force 70 percent of wireless phone users with Lifeline subsidies to find new providers and new plans and could even result in such wireless phone users not having any carrier option after the ban.⁶ In fact, excluding resellers would result in a diminished pool of providers with, in many locations, such providers being limited to only the incumbent provider thus opening the door to a number of underprivileged people not receiving service at all.

According to Public Knowledge "In many states, facilities-based providers have opted out of offering Lifeline-supported service altogether and prefer to allow non-facilities-based wireless providers to serve Lifeline subscribers and the low-income segments of the wireless market".⁷ Public Knowledge further states, "[I]n many states, facilities-based providers have opted out of offering Lifeline-supported service altogether and prefer to allow non-facilities-based wireless providers to serve Lifeline subscribers and the low-income segments of the wireless market".⁸ Under the new proposal— which takes effect immediately — poor consumers will no longer be able to purchase phone or broadband Internet services from telecommunications resellers. Only facilities-based carriers will be allowed to participate in the Lifeline program by offering subsidized plans. However, because not all facilities-based wireless carriers offer subsidized plans, fewer consumers will be eligible for wireless Lifeline services.

This reseller ban would lower the number of companies that can offer subsidized broadband to poor people, and they'd force telecoms to get separate approvals for each state in which they offer subsidized plans. Again, this is a special concern for underserved communities like the LGBT community and especially LGBT individuals in rural areas that rely on these programs to establish a crucial lifeline to the world that may now not have access to phone service in their area who would be impacted even more by the reseller ban.

⁶ See *In the Matter of Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287, *Lifeline and Link Up Reform and Modernization* WC Docket No. 11-42, *Telecommunications Carriers Eligible for Universal Service Support* WC Docket No. 09-197, Fourth Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 17-155 (Released December 1, 2017).

⁷ See Chairman Pai Plans to Put an End to the U.S. Commitment to Universal Service and Affordability available at <https://www.publicknowledge.org/news-blog/blogs/chairman-pai-plans-to-put-an-end-to-the-us-commitment-to-universal-service>

⁸ See Chairman Pai Plans to Put an End to the U.S. Commitment to Universal Service and Affordability available at <https://www.publicknowledge.org/news-blog/blogs/chairman-pai-plans-to-put-an-end-to-the-us-commitment-to-universal-service>

Finally, the FCC should allow its system of national verification to take effect as a means to combat fraud. According to Commissioner Rosenworcel, the FCC is already implementing "a new system of national verification to reduce waste, fraud, [and] abuse,"⁹ According to her, the verifier program is still being implemented, but the FCC's majority is "discard[ing] its possibilities before we even begin."¹⁰ The national verification system, if administered properly, could mitigate or eliminate many of the concerns about fraud and waste expressed by the Chairman.

In conclusion, the current proposal fails to ensure that all individuals that need and qualify for the Lifeline program will be guaranteed access to the program. Furthermore, the failure to establish a specific cap or budget makes it impossible to even begin calculating the impact of the new proposal or to determine how many qualifying households will be shut out of the program under the new budget cap. Alongside this, the blanket exclusion of resellers from the program will result in areas of the country (including rural areas desperately in need) being shut out of the program entirely as resellers may be the only providers of Lifeline services in their area. Until such gaps in service can be assessed and mitigated, the FCC should reconsider its reseller ban and focus its energy on improving and utilizing the national verification program to eliminate fraud and abuse in the Lifeline program. As Sen. Ed Markey, D-Mass. stated, "[T]he Lifeline program is the Medicaid of the telecommunications universe, and any attempt to cap funding, limit benefits, or reduce the number of providers for this critical program could exacerbate the digital divide and deprive disadvantaged communities the opportunity to access key educational, employment, and emergency services."¹¹

Respectfully submitted,

Carlos Gutierrez

Carlos Gutierrez
Head of Legal and Policy Affairs
LGBT Technology Partnership

9 See *In the Matter of Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287, *Lifeline and Link Up Reform and Modernization* WC Docket No. 11-42, *Telecommunications Carriers Eligible for Universal Service Support* WC Docket No. 09-197, Fourth Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 17-155 (Released December 1, 2017).

10 See *In the Matter of Bridging the Digital Divide for Low-Income Consumers*, WC Docket No. 17-287, *Lifeline and Link Up Reform and Modernization* WC Docket No. 11-42, *Telecommunications Carriers Eligible for Universal Service Support* WC Docket No. 09-197, Fourth Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 17-155 (Released December 1, 2017).

11 See Senator Markey Condemns FCC Actions to Allow Media Concentration and Weaken Lifeline Program available at <https://www.markey.senate.gov/news/press-releases/senator-markey-condemns-fcc-actions-to-allow-media-concentration-and-weaken-lifeline-program>